Remarks/Arguments

Claims 1-23 are pending in the application. Claims 1-23 were rejected. Claims 20 and 22 were rejected under 35 USC §101 because the claimed invention is directed to non-statutory subject matter. Claims 1-5, 8-13, 18, 19, 22 and 23 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,761,651 (Hasebe *et al.*). Claims 6 and 7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hasebe as applied to claim 5 and further in view of U.S. Patent No. 6,847,942 B1 (Land *et al.*). Claims 14-17, 20 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hasebe in view of U.S. Patent No. 5,982,887 (Hirotani). No claims were listed as being objected to and no claims were allowed. By the foregoing amendment, claims 20 and 22 are amended, claims 21 and 23 have been canceled. No new matter is presented.

Specification

The amendments made to the specification are to correct minor translational/typographical errors. The amendments do not add new matter.

Claim Rejections - 35 U.S.C. §101

Claims 20 and 22 were rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Claims 20 and 22 have been amended to include the subject matter of claims 21 and 23 respectively. Claims 21 and 23 have been canceled. Claims 20 and 22 have been revised in a *Beauregard* format. *Beauregard* claims cover computer-readable storage devices.

Claim Rejections – 35 U.S.C. §102

Claims 1-5, 8-13, 18, 19, 22 and 23 were rejected under 35 U.S.C. §102(b) as being anticipated by Hasebe *et al.* (US Patent No. 5,761,651).

In response to the rejection of claims under 35 U.S.C. §102(b), the Applicants respectfully traverse the Examiner's rejection. The examiner asserts that Hasebe discloses a license managing system including a game apparatus to be licensed and a managing apparatus.

As stated in MPEP §2131, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. Of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Hasebe does not teach each and every element of claims 1-5, 8-13, 18, 19, 22 and 23. Hasebe teaches away from the present invention. Hasebe does not teach a system and method for licensing arcade games.

The present invention is directed to arcade game licensing. The invention sends a license "password" containing a serial number and a license period which is encrypted. The password is inputted to a game where it is decrypted and a serial number comparison is performed. If the comparison is positive, the license period, is stored within the game. Ancillary information (working state) as in the number of games played and the number of coins collected are recorded at the game along with the serial number for communication back to the manufacturer/licensor. The invention allows for communication between the game (licensee) and manufacturer (licensor).

The invention disclosed in Hasebe is different from the present invention according to claims 1, 2, 5, 10, 11, 14, 15, 17, 18, 20 and 22. According to Hasebe, the time of the clock 302 is adjusted based on the time information included in the time adjusting message 307 from the authorization center. The adjusted time and date are read from the clock upon a utilization request from the protected software when received, and when the values of the read date and time are smaller than that in the date and time date storing register 303 (the period of time for using software is registered), the utilization of the software may be permitted. (col. 5 line 66 to col. 6 line 37)

The present invention requires an input of date and time information when the user starts the game apparatus, followed by comparing the inputted date and time information with the date and time information of the real time clock means, where the real time clock means counting time in accordance with preset date and time information and outputting date and time

information, and the subsequent process is executed if the inputted time and date information is included within a given time difference range with respect to the date and time information outputted from the real time clock means.

This element found in claims 1, 2, 5, 10, 11, 14, 15, 17, 18, 20 and 22 is not taught or suggested in Hasebe. Independent claims 1, 2, 5, 10, 11, 14, 15, 17, 18, 20 and 22 claim wherein said controlling means request an input of date and time information when the game apparatus is started, compare the inputted time and date information with said date and time information of the real time clock means, and execute subsequent process if the inputted time and date information is included within a given time difference range with respect to said date and time information of the real time clock means.

In accordance with MPEP §2131, Applicants respectively submit that Hasebe does not anticipate claims 1-5, 8-13, 18, 19, 22 and 23.

Claim Rejections – 35 U.S.C. §103

Claims 6 and 7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hasebe as applied to claim 5 above, and further in view of Land *et al.* (US Patent No. 6,847,942 B1).

In response to the rejection of claims under 35 U.S.C. §103(a), the Applicants respectfully traverse the Examiner's rejections.

Mere identification in the prior art of each element is insufficient to defeat the patentability of the combined subject matter as a whole. It must be explained why one of ordinary skill in the art would have been motivated to select the references and combine them to render the claimed invention obvious. Applicants' arguments stress the lack of motivation-suggestion-teaching.

Rejections based on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *In re Lee.*

The examiner asserts that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hasebe so that there would have

been limiting information that represented an upper limit of sales of the game apparatus. The controlling means would have deducted, after permitting execution of the game program, current sales of the game apparatus from the upper limit of sales, and outputted a predetermined warning to the information outputting means when an amount after deduction becomes smaller than a predetermined amount. The Examiner further asserts that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hasebe by the teaching of Land because if the sales go below a predetermined amount, the company needs to know to restock the game consoles. (col. 1, lines 28-64)

The primary reference, Hasebe, teaches software charging based on a predetermined amount of time. Stated another way, a user buys a period of time to use or copy downloaded software.

Hasebe's system includes a utilization permitting device for giving permission to use a software storing medium storing ciphered programs or data (software), and an authorization center capable of communicating with the utilization permitting device for setting a utilizable amount, totaling utilization amounts and charging a user. The utilizable amount is measured in date units only, not in time units. (col. 5, lines 17-19) The utilization permitting device includes a utilization permission processing part having a clock for obtaining date and time data, and having a date and time data storing unit for storing obtained date and time data until obtaining next data and time data; and a utilization amount managing part for calculating a software utilization amount of an end user. A software utilization amount is managed based on the number of days at the utilization permission processing part.

Hasebe teaches a system that creates a window of use – a utilization amount of a number of days of allowed use of the software program. By provision of the date and time data storing unit, it is possible to manage the amount-based software charging in accordance with the number of days and [that] the end user will be allowed to reproduce software at home easily as in the case of rental videos, *etc.* (col. 2, lines 17-21)

Land discloses a web enabled accounts receivable system that provides a plurality of account receivables reporting.

The examiner cites column 8, lines 7-34, and recites that Land teaches using controlling means that deducts, after permitting execution of the game program, current sales of the game

apparatus from the upper limit of sales, and outputs a predetermined warning to the information outputting means when an amount after deduction becomes smaller than a predetermined amount.

But col. 8, lines 7-34, of US patent No. 6,847,942 B1 read:

"Based on credit investigation 244, designated credit officer 224 determines whether credit should be granted to the customer. Each designated credit officer 224 has limits to the credit authority, which are resident and strictly controlled within ARS 10. Designated credit officer 224 cannot grant a credit line in excess of their delegated authority limits. ARS 10 restricts access for changing the credit limits of credit officers 230 only to specified authorized individuals within the business entity.

If the customer meets the pre-determined parameters of credit investigation 244 and if the credit is within the limits authorized to designated credit officer 224, designated credit officer 224 approves the new account request. If the customer does not meet the pre-determined parameters of credit investigation 244 or if the credit requested by the customer exceeds the authorized limits of designated credit officer 224, then ARS 10 personnel attempts to obtain security 290 such as personal guarantees 294, inter-corporate guarantees 300, PPSA 304 or conditional sales agreements 310. For approval of various orders, a letter of credit 314 may be sought.

Once designated credit officer 224 makes a decision 324 to approve the order, ARS 10 assigns an approval number in the case of an existing account or an account number 326 in the case of a new customer account to the order and interfaces with OSB system 20 which performs Order Entry function 164, Shipping function 170, and Billing function 174. An interface 330 completes the credit approval process."

It is unclear how the examiner combines or modifies the above from Land with Hasebe to show that the licensing limitations claimed in claims 6 and 7 are rendered obvious by the above. Furthermore, Hasebe is not concerned with, nor teaches individual sales. Hasebe teaches away by providing a predetermined period of time in days that a user may use, or copy software. The individual uses, or copies of the software are not tallied. What is claimed by the present invention in claims 6 and 7 is a licensing activity regarding the number of agreed upon uses, or executions of the game.

As stated under MPEP §2143.01, "If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." *In re Gordon*, 221 USPQ 1125 (Fed. Cir. 1984). "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious." *In re Ratti*, 123 USPQ 349(CCPA 1959)

The combination of the above-identified prior art produces an untenable argument that claims 6 and 7 of the present invention are obvious. To modify the references in order to suggest the present invention would drastically change the principle of operation of the references. Accordingly, Applicants submit that claims 6 and 7 are in condition for allowance.

Claims 14-17, 20 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hasebe in view of Hirotani (US Patent No. 5,982,887).

As to claim 14, the examiner asserts that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hasebe by the teaching of Hirotani because the serial number as the specific data of the computer and the password obtained from the serial number are necessary to execute a software. It is inhibited that the software is executed by a hardware other than that which is registered at the time of purchase of the software. The illegal copy of the software can be prevented in a simple hardware. Since the comparison program including the predetermined program calculating the password is decrypted, the password is never calculate even if the serial number is known. (col. 8, lines 30-39)

The motivation the examiner posits is merely a conclusory hindsight assertion. No citation has been provided for why one of ordinary skill in the art would be motivated to combine the teachings of Hirotani with those of Hasebe. Under col. 8, lines 30-39, Hirotani teaches:

"According to the third embodiment, the serial number as the specific data of the computer and the password obtained from the serial number are necessary to execute a software. It is inhibited that the software is executed by a hardware other than that which is registered at the time of purchase of the software. The illegal copy of the software can be prevented in a

simple hardware. Since the comparison program including the predetermined program calculating the password is decrypted, the password is never calculate even if the serial number is known."

What the present invention is claiming in claim 14 is a license password that contains the identification of a game and a predetermined license period. Acceptance of the password at the game location allows the game to be executed for the predetermined license period of time. The password as used in the present invention is not to prevent an illegal copy of the software from being made.

Hirotani teaches the use of a password generated from a serial number which then allows software to be executed to prevent piracy. The password entered in Hirotani is not encrypted and is used to validate and verify an authorized or "legal" user. This aspect is entirely different from that taught by the present invention. The intent of the password a user inputs in Hirotani is to guarantee that the user is authorized to execute the software. The use of the password that is encrypted, and input, in the present invention is to allow for an arcade game to be operated for a licensed period of time.

It is unclear how the examiner combines or modifies the above from Hirotani with Hasebe to teach a password that defines a license period and includes a serial number of a game machine that the license period is assigned to. The passwords used for Hirotani and Hasebe are for entirely different purposes.

Further, as to claim 14, the examiner asserts that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hasebe so that a password would have represented encrypted identification information of the game apparatus to be licensed and encrypted license condition information thereof was transmitted to a licensee. The licensee would have inputted the password into the game apparatus to be licensed. The game apparatus to be licensed would have executed processing for decoding the inputted password. There would have been first determination processing for determining whether or not the decoded identification information and prestored identification information of the game apparatus are in a predetermined relationship. There would have been second determination processing for determining whether or not the decoded license condition information and internal information of the game apparatus are in a predetermined relationship, and starts execution of a

game program when determination results of the first and second determination processing are both affirmative.

It is unclear how the examiner combines or modifies the above from Hirotani with Hasebe to teach a password that is comprised of a license period and serial number of a game machine. This motivation is a hindsight conclusory assertion. Neither Hasebe nor Hirotani teach or suggest a system or method for licensing.

As to claim 15, the examiner asserts that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hasebe so that a password would have represented encrypted identification information of the game apparatus to be licensed and encrypted license condition information thereof was transmitted to a licensee. The licensee would have inputted the password into the game apparatus to be licensed. The game apparatus to be licensed would have executed processing for decoding the inputted password. There would have been first determination processing for determining whether or not the decoded identification information and prestored identification information of the game apparatus are in a predetermined relationship. There would have been second determination processing for determining whether or not the decoded license condition information and internal information of the game apparatus are in a predetermined relationship, and starts execution of a game program when determination results of the first and second determination processing are both affirmative. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hasebe by the teaching of Hirotani because the serial number as the specific data of the computer and the password obtained from the serial number are necessary to execute a software. It is inhibited that the software is executed by a hardware other than that which is registered at the time of purchase of the software. The illegal copy of the software can be prevented in a simple hardware. Since the comparison program including the predetermined program calculating the password is decrypted, the password is never calculate even if the serial number is known. (col. 8, lines 30-39)

As to claim 16, Hasebe teaches that execution of the game program is prohibited when the determination result of the second determination processing becomes negative after execution of the program is permitted. (col. 9, lines 4-21).

The motivation the examiner posits is merely a conclusory hindsight assertion. No citation has been provided for why one of ordinary skill in the art would be motivated to combine the teachings of Hasebe with those of Hirotani. The elements of the prior art are listed, but the discussion lacks the motivation why they should be combined. Col. 8, lines 30-39 of Hirotani have been reproduced above.

As to claim 17, the examiner asserts that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hasebe so that a password would have represented encrypted identification information of the game apparatus to be licensed and encrypted license condition information thereof was transmitted to a licensee. The licensee would have inputted the password into the game apparatus to be licensed. The game apparatus to be licensed would have executed processing for decoding the inputted password. There would have been first determination processing for determining whether or not the decoded identification information and prestored identification information of the game apparatus are in a predetermined relationship. There would have been second determination processing for determining whether or not the decoded license condition information and internal information of the game apparatus are in a predetermined relationship, and starts execution of a game program when determination results of the first and second determination processing are both affirmative. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hasebe by the teaching of Hirotani because the serial number as the specific data of the computer and the password obtained from the serial number are necessary to execute a software. It is inhibited that the software is executed by a hardware other than that which is registered at the time of purchase of the software. The illegal copy of the software can be prevented in a simple hardware. Since the comparison program including the predetermined program calculating the password is decrypted, the password is never calculate even if the serial number is known. (column 8, lines 30-39)

Neither Hasebe nor Hirotani teach a working state. The working state as defined in the present invention is the number of times a game is played and the number of coins collected. Neither Hasebe nor Hirotani teach a licensing method or system.

Claims 20 and 22 have been amended.

The combination of the above-identified prior art produces an untenable argument that the present invention is obvious. To modify the references in order to suggest the present invention would drastically change the intent and principle of operation of Hasebe, Hirotani and Land. Accordingly, Applicants submit that claims 1-20 and 22 are in condition for allowance.

A check in the amount of $1,020 is enclosed for a three month extension of time. Should the Director determine that an additional fee is due, he is hereby authorized to charge said fee to Deposit Account No. 02-0184.

If the Examiner believes that a further telephonic interview will facilitate allowance of the claims, she is respectfully requested to contact the undersigned at 203-777-2268.

Accordingly, Applicants submit that the pending claims are in condition for allowance.

Please charge any fees or deficiency or credit any overpayment to our Deposit Account of record.

Respectfully submitted,

By _____

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Date: April 27, 2007

I, Alicia Therriault, hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on April 27, 2007.

Alicia Therriault